



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

JAN 27 2015

REPLY TO THE ATTENTION OF:
WC-15J

CERTIFIED MAIL 7011 1150 0000 2639 5230
RETURN RECEIPT REQUESTED

Mr. (b) (6); Registered Agent
Ledgeview Farms, LLC.

(b) (6)(b) (6)(b) (6)
De Pere, Wisconsin 54115

Re: *In the Matter of Ledgeview Farms LLC*
Clean Water Act Administrative Order V-W-13-AO-22

Dear Mr. (b) (6):

On September 13, 2013, the U.S. Environmental Protection Agency issued an Administrative Order ("Order") V-W-13-AO-22 to Ledgeview Farms, LLC ("Ledgeview") for its facilities at (b) (6)(b) (6)(b) (6) and (b) (6)(b) (6)(b) (6), in De Pere, Wisconsin pursuant to Sections 308 and 309(a) of the Clean Water Act ("CWA"). EPA sent Ledgeview a letter on September 26, 2013 providing a Compliance Schedule for use as an aid to understand the compliance deadlines of the Order. Additionally, EPA notified Ledgeview that the Order was effective as of September 28, 2013. On March 13, 2014, EPA notified Ledgeview by letter that EPA had not received the Permit Compliance Plan required under section IV.C. of the Order. The Permit Compliance Plan is a detailed plan to ensure EPA that the farm is taking the proper steps in an adequate timeline to address the discharge of pollutants observed at your facility. That Plan needs to include a Nutrient Management Plan (NMP), which ensures proper runoff controls and adequate manure storage facilities are constructed, and for the facility to submit a complete permit application, all according to a schedule submitted by the farm. This plan was due on December 27, 2013 and as of today a complete plan has not been submitted.

Mr. David Wetenkamp of Brown County Land and Water Conservation emailed documents pertaining to a Permit Compliance Plan on March 18, 2014. On July 18, 2014, EPA issued Notifications of Required Revisions to Draft Permit Compliance Plan and an Information Request. On July 31, 2014, Mr. Wetenkamp sent a response to EPA's July 18 letter at the request of Ledgeview (including an update on the compliance status of Ledgeview and copies of WPDES permit application documents). As of today, EPA has not received a complete Permit Compliance Plan submittal from Ledgeview.

Farms. Ledgeview Farms needs to send any further submittals made pursuant to this order with an authorized signature containing the certification statement. On August 20, 2014, Ledgeview sent a response to EPA's July 18 Information Request.

EPA has reviewed the material sent by both Mr. Wetenkamp and Ledgeview, and the Agency continues to have grave concerns. At this point the Order has been issued for well over *one year* and Ledgeview continues to present serious compliance problems. Not only is Ledgeview still failing to comply with the Order, but Ledgeview has now also failed to completely respond to an Information Request.

You need to be aware of the potential consequences of this noncompliance. First, EPA may seek judicial enforcement of the Order requirements and/or Order noncompliance penalties through a referral to the United States Department of Justice pursuant to CWA Section 309(a)(3), (b) and (d), 33 U.S.C. §§ 1319(a)(3), (b) and (d). Second, even if Ledgeview manages to get back on track with Order Compliance and Information Request compliance, EPA may seek penalties for the extended period of Order noncompliance which has already occurred in an administrative action pursuant to CWA Section 309(g), 33 U.S.C. §§ 1319(g). *You are urged to give this matter your immediate attention.*

Currently, EPA is concerned with two primary areas of noncompliance:

(1) Order Noncompliance

Permit Compliance Plan Deficiencies:

- the actions Ledgeview has taken or will take to prepare and submit a complete NPDES permit application to WDNR (see paragraph 41 of the Order) *Specifically, Ledgeview has not provided a schedule documenting when a complete NPDES permit application, including all requirements contained in paragraphs 46-47 of the Order will be submitted to WDNR. Furthermore, Wisconsin Department of Natural Resources informed Ledgeview by letter on September 22, 2014, that the NPDES materials submitted by Ledgeview for a CAFO WPDES permit was incomplete (see attached letter)*
- a schedule for the development of NMP (paragraph 46.c, section IV.D) and a schedule for the construction of all controls required by the NMP (see paragraph 41.a of the Order)¹ *Specifically, Ledgeview has failed to state when an NMP meeting all requirements of paragraphs 49-61 of the Order will be submitted to WDNR. The NMP does not document how the construction projects the farm proposes will ensure the proper storage of manure, litter, and process wastewater according to paragraphs 57-61 of the Order or ensure how clean storm water is diverted. There are no specific engineering plans or specifications for the proposed controls, only preliminary*

¹ Your schedule should reflect the fact that the NMP will contain the information required by paragraphs 49, 51, 57-59, and 60 of the Order.

information. It is unclear whether or not the construction projects described in the 3/18/14 or 7/30/14 Brown County email constitute all controls required by the NMP.

Additionally, Ledgeview Farms included Pit #1 and Pit #2 at the Home Site in its calculation for 180 days storage in the NMP. However, Ledgeview Farms stated in the Information Request response that these facilities have not been used for storage of manure. Please clarify if the farm intends to use these pits in the future. The NMP does not provide the storage capacity or document whether the reception pit at the Satellite site can contain the runoff and direct precipitation from a 25 year, 24-hour rainfall event.

- a certification with an authorized signature as required by paragraph 72 or the Order.
Specifically, Ledgeview itself has not submitted an authorized signature – the signature of David Wetenkamp (Brown County) is not an authorized signature.

(2) Information Request Noncompliance

General

- QUESTION 3: State how often Ledgeview removes manure and used bedding from the animal lots that are currently in use.
The Ledgeview Response only provides information about the Satellite Lot, not the Home Site. Ledgeview must also provide information about the Home Site.
- QUESTION 4: Describe how manure and used bedding from the animal lots currently in use is stored at the facility both in the short- and long-term.
It appears that Ledgeview is not storing waste, but rather is only managing manure via land storage in both the short- and long-term. Ledgeview should clarify its response.
- QUESTION 5: Describe how storm water that contacts manure or used bedding materials from animal lots currently in use is contained during rainfall and other runoff events.
It appears that Ledgeview has no fencing or other containment to keep animals off of the east side of the Satellite Lot and it appears that storm water is completely uncontained at both the Satellite Lot and the Home Site. Ledgeview should clarify its response.
- QUESTION 6: State whether or not leachate is created in the ensilage process at the facility. If yes, describe how that leachate is managed by Ledgeview.
EPA observed during the inspection that the silage leachate was not being managed at the facility. Ledgeview should specify whether or not this is still true.

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Interim Measures

- QUESTION 7: State whether or not unpermitted discharges from the Site have occurred since September 28, 2013. If they have not stopped, provide the following information for each discharge:

- a. A description of the material discharged;
- b. The amount of the discharge;
- c. When the discharge started;
- d. When the discharge stopped; and
- e. Any measures taken by Ledgeview to clean up the discharge.

Ledgeview only provided some Home Site information in response to this question. Ledgeview should provide Home Site Lot B information in response to this question. Ledgeview should also provide Satellite Lot information in response to this question.

- QUESTION 8: Describe all interim measures (including but not limited to changes in the operation and maintenance of the manure pits at the facility, measures taken to patch the hole in the wall of manure storage pit 2, reduction or elimination of silage leachate production at the facility, elimination of process wastewater runoff) which have been taken by Ledgeview to eliminate all unpermitted discharges from the Site since September 28, 2013. Include the following information for each interim measure:

- a. A description of the interim measure taken;
- b. Documentation showing that Ledgeview completed installation of the interim measure (e.g. as-built diagrams, photographs, affidavits, etc.);
- c. An accounting of the costs to Ledgeview to install, implement and maintain the interim measure;
- d. A description of how the interim measure contributes to the elimination of unpermitted discharges from the Site;
- e. The date the interim measure was fully implemented; and
- f. A description of how Ledgeview plans to maintain the interim measure.

Ledgeview only refers to the general information provided in the 7/30/14 Letter from Brown County to EPA. For each interim measure, Ledgeview should provide a complete response to each subpart of this question.

- QUESTION 9: Describe all interim measures (including but not limited to changes in the operation and maintenance of the manure pits at the facility, measures taken to patch the hole in the wall of manure storage pit 2, reduction or elimination of silage leachate production at the facility, and elimination of process wastewater runoff) which are planned by Ledgeview to eliminate all unpermitted discharges from the Site. Include the following information for each interim measure:

- a. A description of the interim measure taken;

- b. A description of how the interim measure contributes to the elimination of unpermitted discharges from the Site;
- c. The date physical construction of the interim measure will begin;
- d. The date the interim measure will be fully implemented; and
- e. A description of how Ledgeview plans to maintain the interim measure

Ledgeview only refers to the general information provided in the 7/30/14 Letter from Brown County to EPA. For each interim measure, Ledgeview should provide a complete response to each subpart of this question. EPA is particularly concerned about the mention in the 7/30/14 letter of "the gully erosion that is occurring" and continued runoff that "eventually drains to the road ditch," along with no definitive statement on whether bunker "abandonment" is actually being planned.

Nutrient Management - Land Application (limitations, sampling, records)

- QUESTION 10: State whether or not Ledgeview has land applied manure, litter or process wastewater closer than 100 feet to any down-gradient surface waters, open tile line intake structures, sinkholes, agricultural well heads, or other conduits to surface waters since September 28, 2013. If the answer is yes, provide:
 - a. A description of the material which was land applied;
 - b. Where the material was applied;
 - c. The quantity of material which was applied;
 - d. When the material was applied;
 - e. When the material was removed;
 - f. Whether Ledgeview imposed a 35-foot wide vegetated buffer around the land application area; and
 - g. If Ledgeview did not impose a 35-foot wide vegetated buffer, provide any evidence Ledgeview may have demonstrating that a setback or buffer was not necessary.

Ledgeview only discusses wells and tile inlets. Ledgeview should also discuss down-gradient surface waters, sinkholes, agricultural well heads, or other conduits to surface waters.

Site Inspections

- QUESTION 14: Has Ledgeview conducted daily inspections of water lines at its facility since September 28, 2013? If the answer is anything other than an unequivocal yes, provide the date(s) on which Ledgeview has conducted a daily inspection at the facility and provide a copy of any inspection report required by paragraph 64 of the Order.
The response to Question 14 is unclear. Ledgeview should specify whether or not there was an inspection done every day.
- QUESTION 15: Has Ledgeview conducted weekly inspections of all storm water diversion devices, runoff diversion devices, and devices channeling contaminated

storm water to containment structures at the facility since September 28, 2013? If the answer is anything other than an unequivocal yes, provide the date(s) on which Ledgeview has conducted an inspection at the facility and provide a copy of any inspection report required by paragraph 64 of the Order.

The response to Question 15 is unclear. Ledgeview should specify whether or not there was an inspection done every week.

- QUESTION 16: Has Ledgeview conducted weekly inspections of storage structures at its facility since September 28, 2013? If the answer is anything other than an unequivocal yes, provide the date(s) on which Ledgeview has conducted weekly inspections of storage structures at the facility and provide a copy of any inspection report required by paragraph 64 of the Order.

The response to Question 16 is unclear. Ledgeview should specify whether or not there was an inspection done every week at both the Home Site and the Satellite Lot.

- QUESTION 17: Has Ledgeview made weekly determinations of the depth of the manure and process wastewater (and amount of freeboard, where required) in all open surface liquid structures required under the Order? If the answer is anything other than an unequivocal yes, provide the date(s) on which Ledgeview has made such a weekly determination and provide a copy of any inspection report required by paragraph 64 of the Order.

The response to Question 16 is unclear. Ledgeview should specify whether or not there are currently open surface liquid structures at both the Home Site and the Satellite Lot.

- QUESTION 18: Has Ledgeview conducted any periodic inspections of equipment used for the land application of manure, litter, or process wastewater? Provide the date(s) of any such inspection and provide a copy of any inspection report required by paragraph 64 of the Order.

Ledgeview should provide both dates and copies of any inspection reports.

Discharge Minimization/Notification

- QUESTION 19: Has Ledgeview posted procedures at the facility to effectively respond to any spill or discharge pursuant to paragraph 65 of the Order? If yes:
 - a. Describe the location of the posted procedures;
 - b. Provide a copy of the posted procedures; and
 - c. Provide the date(s) on which the procedures were posted.

Ledgeview should specify whether or not the procedures have been posted at the Satellite Lot, a copy of what was posted, and the date they were posted.

Ledgeview should also state the date in October on which the procedures were posted at the Home Site.

To avoid having to defend against a judicial or administrative enforcement action, EPA urges Ledgeview to take action *immediately*. Please advise EPA of your plans to address

the noncompliance outlined above by contacting Donald R. Schwer III, Enforcement Officer:

Donald R. Schwer III, Enforcement Officer
U.S. EPA Region 5 Water Division
77 West Jackson Blvd. (mail code: WC-15J)
Chicago, Illinois 60604
Telephone: (312) 353-8752
Email: schwer.don@epa.gov

If you are represented by an attorney, please direct your counsel to contact Catherine Garypie, Associate Regional Counsel:

Catherine Garypie, Associate Regional Counsel
U.S. EPA R5 Office of Regional Counsel
77 West Jackson Blvd. (mail code: C-14J)
Chicago, Illinois 60604
Telephone: (312) 886-5825
Email: garypie.catherine@epa.gov

We look forward to hearing from you at your earliest convenience.

Sincerely,

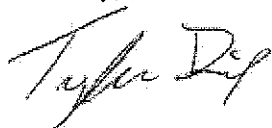
A handwritten signature in black ink, appearing to read 'DMaraldo', is written over a horizontal line.

Dean Maraldo, Chief
Water Enforcement and Compliance Assurance
Branch

Attachment: 9/22/14 Letter from Dix (WDNR) to (b) (6) (Ledgview)

We look forward to working with you throughout the permitting process. Please do not hesitate to contact Brad or me if you have any questions regarding this letter or questions about the application materials.

Sincerely,

A handwritten signature in black ink, appearing to read "Tyler Dix". The signature is fluid and cursive, with the first name "Tyler" and last name "Dix" clearly distinguishable.

Tyler Dix
CAFO Intake Specialist
Bureau of Watershed Management

Phone: (608) 261-8437

Email: Tyler.Dix@Wisconsin.gov

Cc: Kevin Beckard, Ag Source (via e-mail)
Dave Wetenkamp, Brown County LWCD (via email)
NER – Casey Jones (via e-mail)
NER – Brad Holtz (via e-mail)
Matthew Gluckman, US EPA Region V (via e-mail)